

1 CATHERINE CORTEZ MASTO  
Attorney General of Nevada  
2 CHRISTOPHER ECCLES  
Deputy Attorney General  
3 555 East Washington Avenue, Suite 3900  
4 Las Vegas, Nevada 89101  
Telephone: (702) 486-3105  
5 Facsimile: (702) 486-3416  
E-Mail: [ceccles@ag.nv.gov](mailto:ceccles@ag.nv.gov)

*Agenda  
copy*

7 **BEFORE THE NEVADA STATE ATHLETIC COMMISSION**

8 \* \* \*

9 **IN THE MATTER OF:** ) **COMPLAINT FOR**  
 ) **DISCIPLINARY ACTION**  
10 **NICK DIAZ** ) **AND NOTICE OF HEARING**  
 )

11 \_\_\_\_\_  
12 KEITH KIZER, Executive Director for the ATHLETIC COMMISSION of the  
13 DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, complains for  
14 disciplinary action against NICK DIAZ (DIAZ), as follows:

15 **JURISDICTION**

- 16 1. DIAZ is now, and was at all pertinent times alleged herein, licensed in Nevada as a  
17 professional mixed martial artist by the NEVADA STATE ATHLETIC COMMISSION  
18 (Commission).  
19 2. As the holder of a Nevada professional mixed martial artist's license, DIAZ is subject to  
20 the provisions of Chapter 467 of the Nevada Revised Statutes (NRS), and of Chapter  
21 467 of the Nevada Administrative Code (NAC).  
22 3. Pursuant to NRS Chapter 467, the Commission is vested with the sole discretion,  
23 management, control and jurisdiction over contests, exhibitions and licensees of  
24 unarmed combat, which includes mixed martial arts.

25 **FACTUAL ALLEGATIONS**

- 26 4. On April 18, 2007, the Commission, by unanimous decision, suspended DIAZ's mixed  
27 martial artist's license for a period of six months after the presence of Delta-9-THC  
28 Carboxylic Acid, the major metabolite of Delta-9-THC (the active ingredient in

1 marijuana), was detected in DIAZ's urine following his February 24, 2007 mixed martial  
2 arts contest in Las Vegas, Nevada.

3 5. After serving the suspension and paying a fine, DIAZ participated in a professional  
4 mixed martial arts contest in Las Vegas, Nevada on February 4, 2012, which he lost by  
5 unanimous decision (the "Contest"). The Contest was conducted under the direction of  
6 the Commission.

7 6. Immediately after the Contest, on the same date, DIAZ voluntarily submitted to a  
8 urinalysis (the "Urinalysis") and provided a urine sample for testing.

9 7. The Urinalysis reflects a positive result for the presence of Marijuana Metabolites,  
10 which are prohibited by the regulations of the Commission. The results of the  
11 Urinalysis are reflected in the Laboratory Report, attached hereto as Exhibit 1.

12 8. The administration of or use of any drug that has not been approved by the  
13 Commission by a Nevada licensed mixed martial artist is prohibited by the regulations  
14 of the Commission.

### 15 ALLEGED VIOLATIONS

16 9. Based upon and incorporating by reference the foregoing Factual Allegations, the  
17 Executive Director alleges that DIAZ violated Nevada Administrative Code (NAC)  
18 467.850. NAC 467.850(1), (2), (5) and (6) provide as follows:

19 1. The administration of or use of any:  
20 (a) Alcohol;  
21 (b) Stimulant; or  
22 (c) Drug or injection that has not been approved by the  
23 commission, including, but not limited to, the drugs or  
24 injections listed in subsection 2,  
25 in any part of the body, either before or during a contest or  
26 exhibition, to or by any unarmed combatant, is prohibited.

27 2. The following types of drugs, injections or stimulants are  
28 prohibited pursuant to subsection 1:

...

(f) Any drug identified on the most current edition of the  
*Prohibited List* published by the World Anti-Doping Agency,  
which is hereby adopted by reference. The most current  
edition of the *Prohibited List* may be obtained, free of charge, at  
the Internet address [www.wada-ama.org](http://www.wada-ama.org).

- 1 5. A unarmed combatant shall submit to a urinalysis or chemical  
2 test before or after a contest if the commission or the  
3 commission's representative directs him to do so.
- 4 6. A licensee who violates any provision of this section is subject  
5 to disciplinary action by the commission. In addition to any  
6 other disciplinary action by the Commission, if an unarmed  
7 combatant who won or drew a contest or exhibition is found to  
8 have violated the provisions of this section, the Commission  
9 may, in its sole discretion, change the result of that contest or  
10 exhibition to a no decision.

11 10. Marijuana Metabolites are not drugs approved by the Commission.

12 11. NAC 467.886 provides in pertinent part as follows:

A person licensed by the commission shall not engage in  
any activity that will bring disrepute to unarmed combat ....

13 12. By testing positive for Marijuana Metabolites, DIAZ has violated NAC 467.850 and  
14 467.886.

**DISCIPLINE AUTHORIZED**

15 13. NRS 467.157 provides that, "Any license issued under this chapter may be revoked for  
16 cause deemed sufficient by the commission upon a hearing provided for in NRS  
17 467.113."

18 14. NRS 467.158(2)-(4) provide in full as follows:

- 19 2. If disciplinary action is taken against a person pursuant to this  
20 chapter, including, but not limited to, a hearing for the  
21 revocation of a license, and the disciplinary action relates to:
  - 22 (a) The preparation for a contest or an exhibition of unarmed  
23 combat;
  - 24 (b) The occurrence of a contest or an exhibition of unarmed  
25 combat; or
  - 26 (c) Any other action taken in conjunction with a contest or an  
27 exhibition of unarmed combat, the commission may  
28 prescribe a penalty pursuant to subsection 3.
3. A penalty prescribed by the commission pursuant to subsection  
2:
  - 24 (a) Must not exceed \$250,000 or 100 percent of the share of  
25 the purse to which the holder of the license is entitled for  
26 the contest or exhibition, whichever amount is greater; and
  - 27 (b) May be imposed in addition to or in lieu of any other  
28 disciplinary action that is taken against the person by the  
commission.
4. If disciplinary action is taken against a person pursuant to this  
chapter, the commission may require the person against whom

such action is taken to pay the costs of the proceeding, including investigative costs and attorney's fees.

15. NAC 467.885(2) and (5) provide in full as follows:

The commission may suspend or revoke the license of, or otherwise discipline or take any combination of such actions against a licensee who has, in the judgment of the commission:

2. Violated any provision of this chapter [467];

5. Conducted himself at any time or place in a manner which is deemed by the commission to reflect discredit to unarmed combat ....

**RELIEF SOUGHT**

16. Based upon the allegations contained herein which constitute sufficient cause for disciplinary action against the licensee pursuant to the provisions of NRS Chapter 467 and NAC Chapter 467, the Executive Director prays for relief as follows:

- A. That DIAZ be fined a monetary sum pursuant to the parameters defined at NRS 467.158;
- B. That the Commission take action against DIAZ's license pursuant to the parameters defined at NAC 467.885;
- C. That DIAZ pay the costs of the proceeding, including investigative costs and attorney's fees;
- D. That DIAZ provide the Commission with a negative urine test for prohibited substances upon filing his next application for an unarmed combatant's license; and
- E. For such other and further relief as the Commission may deem just and proper.

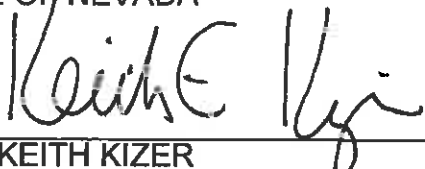
**NOTICE OF HEARING**

THEREFORE, DIAZ is directed to answer in writing the Complaint for Disciplinary Action within 20 days from service. Thereafter a hearing into this matter will be scheduled at the offices of the Nevada Athletic Commission, 555 East Washington Avenue, Suite 3200, Las Vegas, Nevada 89101, or such other place as may be designated, in writing, by the Commission. The Commission will, at that time, take such action as may be just and proper pursuant to the proof and pertinent laws.

DIAZ is entitled to be represented by counsel of his choice at the hearing. Additionally, DIAZ is entitled to cross-examine witnesses, present evidence and argue on his behalf before a decision is made by the Commission. If DIAZ fails to appear at the hearing, a decision may be reached in his absence.

DATED this 8<sup>th</sup> day of February, 2012.

FOR THE NEVADA ATHLETIC COMMISSION,  
DEPARTMENT OF BUSINESS AND INDUSTRY,  
STATE OF NEVADA

By:   
\_\_\_\_\_  
KEITH KIZER  
Executive Director

SUBMITTED BY:

CATHERINE CORTEZ MASTO  
Attorney General of Nevada

By:   
\_\_\_\_\_  
CHRISTOPHER ECCLES  
Deputy Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of February 2012, I served the foregoing  
**COMPLAINT FOR DISCIPLINARY ACTION AND NOTICE OF HEARING, AND NOTICE OF  
COMPLAINT AND OBLIGATION TO ANSWER COMPLAINT** by depositing a copy of the  
same in the United States mail, properly addressed, postage prepaid, **REGULAR MAIL** and  
**CERTIFIED MAIL** addressed as follows:

NICK DIAZ  
3764 MASSIMO CIR.  
STOCKTON, CA 95212

**Certified Mail No.** 7005 0390 0000 0411 8828

  
\_\_\_\_\_  
An Employee of the Nevada State Athletic Commission's Office